

Before the
Federal Communications Commission
Washington, D.C. 20554

In re)
)
800 MHz Specialized Mobile Radio Licensees)
)
Applications for Review of Denial of)
Motions for Reconsideration of Waiver)
Requests of Construction Period)

MEMORANDUM OPINION AND ORDER

Adopted: November 5, 1999

Released: November 9, 1999

By the Commission:

1. The Commission has before it multiple Applications for Review filed by 800 MHz Conventional and Trunked Specialized Mobile Radio (SMR) licensees.¹ Petitioners request review of the denial of their respective motions for reconsideration of denials of requests for waiver of the Commission's construction period for SMR licenses.

2. The Applications for Review listed in Appendix A were untimely filed, pursuant to section 1.115(d) of the Commission's rules, because they were filed more than 30 days after the denial of these petitioners' respective requests for reconsideration.² We therefore dismiss these applications as untimely.

3. With respect to the remaining Applications for Review listed in Appendix B, we deny the requests for extensions of time to construct SMR facilities. The Licensing and Technical Analysis Branch of the Wireless Telecommunications Bureau denied petitioners' original waiver requests because the requests for extension were untimely filed and/or did not provide sufficient justification for an extension. Petitioners then filed motions for reconsideration, contending that they should receive extensions based on the *Goodman/Chan* proceeding.³

4. By letter decisions, the Licensing and Technical Analysis Branch denied the petitions for reconsideration. The Branch concluded that petitioners' reliance on the *Goodman/Chan* proceeding was misplaced because the relief afforded in that proceeding was expressly limited to General Category SMR

¹ See Appendices A and B.

² 47 CFR § 1.115(d)

³ Daniel R. Goodman, Receiver; Dr. Robert Chan, Petition for Waiver of Sections 90.633(c) and 1.1102 of the Commission's Rules, *Memorandum Opinion and Order*, 10 FCC Rcd 8537 (1995), *Memorandum Opinion and Order on Reconsideration*, 13 FCC Rcd 21944 (1998), *pet. for review denied*, Daniel Goodman et al. v. FCC, 182 F.3d 987 (D.C.Cir. 1999).

licensees who had obtained eight-month construction periods under pre-1995 rules, and did not extend similar relief to licensees who had twelve months to construct, such as petitioners.⁴

5. The Licensing and Technical Analysis Branch properly decided the matters raised below. First, to the extent that petitioners' original extension requests were untimely, denial of these requests was proper because the rules required licensees to file extension requests prior to the expiration of the twelve month construction period. Second, as noted above, the relief afforded in the *Goodman/Chan* proceeding was expressly limited to certain General Category SMR licensees who had obtained eight-month construction periods under pre-1995 rules. The rationale of these orders was to place this limited group of SMR licensees in the same position as other CMRS licensees who acquired their licenses after January 2, 1995 and received licenses with twelve month construction requirements. Thus, the *Goodman/Chan* proceeding provided no basis for granting extensions to licensees, such as petitioners, who already had twelve month construction periods. Because petitioners have no underlying claim to relief based on *Goodman/Chan*, petitioners' arguments based on the amount of time that elapsed before the relief afforded to the *Goodman/Chan* licensees became effective are irrelevant and need not be addressed.

6. Accordingly, IT IS ORDERED that the applications for review listed in Appendix A ARE DISMISSED pursuant to Section 1.115(d) of the Commission's Rules, 47 C.F.R. § 1.115(d).

7. IT IS ALSO ORDERED that the applications for review listed in Appendix B ARE DENIED for the reasons specified herein.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

⁴ In some instances, the Branch also denied the petitions for reconsideration on the grounds that they were untimely filed.